1. Openness to Foreign Investment

2011 ended well for Niger, with restoration of AGOA eligibility in October and the official start of oil production at the Zinder refinery in December. In addition, Niger attracted major investments in 2011, with the launch of *Niamey Nyala*, a multi-faceted program to rehabilitate the capital, the start of construction on both a new cement factory in Malbaza and on the Kandadji dam, and an agreement with a U.S. firm to build affordable housing over the next five years.

Following the April, 2011 restoration of democracy, Niger's elected government announced its commitment to attracting private investors. Under the Investment Code, industrial investments enjoy tax and customs exemptions, and in some cases exemptions from value added tax (VAT). Other tax benefits are possible, but terms must be negotiated with the Ministry of Commerce and Private Sector Promotion on a case-by-case basis. Most investors benefit from special tax treatment and tariff protection for periods that vary with the level and location of investment. The Investment Code contains no provisions for screening, and guarantees equal treatment of investors regardless of nationality. Nigerien authorities have announced that the National Council of Private Investors (CNIP), which is charged with reviewing Niger's investment climate and performance and proposing specific actions to address national investment priorities, will re-start activity soon.

The *Guichet Unique* or one-stop-shop, at the Chamber of Commerce is the first step for foreign investors interested doing business in Niger and qualifying for investment incentives. The *Guichet Unique* welcomes investors and can inform them of laws and regulations that govern investment, and enable them to fulfill the requirements for creating a business as expeditiously as possible. Within the Chamber of Commerce, there is also a division called *Centre de Promotion des Investissements* (CPI, Center for Investment Promotion) that welcomes, directs, advises, and assists national and foreign entrepreneurs/investors with a view to promoting private investment in Niger.

The Investment Code offers advantages to sectors the government of Niger deems key to economic development: energy production, mineral exploration and mining, agriculture, food processing, forestry, fishing, low-cost housing construction, handicrafts, hotels, schools, health centers, and transportation. Total foreign ownership is permitted in most sectors except energy, mineral resources, and sectors restricted for national security purposes. Foreign ownership of land is permitted, but requires authorization from the Ministry of Planning, Land Management, and Community Development.

Disincentives to investment include the limited domestic market, high transportation costs, and a slow and cumbersome government bureaucracy. Niger's low literacy rate and weak education system limit the availability of skilled labor and service providers. English is not widely spoken. Deterrents to investment include limited institutional capacity, inadequate infrastructure, and corruption. Investors will want to exercise careful due-diligence in selecting business partners, and recognize that the sanctity of contracts, specifically with regard to dispute resolution provisions, has not always been observed.

Niger ranks near the bottom of the IFC's "*Doing Business*" index, and the regulatory environment has been a barrier to private-sector growth. According to 2011 data, starting a business in Niger took 17 days and required nine different procedures. In September 2011, the Nigerien government held a workshop on how to improve the "Starting a Business" indicator and, in December 2011, held a full-day seminar on business financing.

Niger – Economic Indices

Measure	Year	Index/Ranking
TI Corruption Index	2011	134 of 183
Heritage Economic Freedom	2011	126 of 183
World Bank Doing Business	2011	172 of 183
MCC Government Effectiveness	2011	64%
MCC Rule of Law	2011	73%
MCC Control of Corruption	2011	69%
MCC Fiscal Policy	2011	58%
MCC Trade Policy	2011	61%
MCC Regulatory Quality	2011	68%
MCC Business Start-Up	2011	29%
MCC Land Rights Access	2011	30%
MCC Natural Resource Protection	2011	49%

2. Conversion and Transfer Policies

As a member of the CFA, *Communaute Financiere Africaine* ("franc zone") and the Economic Community of West African States (ECOWAS), Niger has benefited from a foreign exchange system that is free of restrictions on payments and transfers. Foreign capital and domestic capital are legally equal. Investments are not screened, and most sectors of the economy are open to foreign investment. Currency conversions above 2 million CFA (about $4,200) must be approved by the government. The limited access to financing hinders private sector development.

3. Expropriation and Compensation

The November 26, 2010 Constitution states in Article 28 that "everyone has the right to own property and that no one shall be deprived of his property for public purposes subject to prior and just compensation."

The Investment Code guarantees that no business will be subject to nationalization or expropriation except when deemed "in the public interest" as prescribed by the law. The Code requires that the government compensate any expropriated business with just and equitable payment. There were cases in which the former government of Niger reduced terms of telecommunications licenses due to failure to practice agreed level of service.

-- In 2009, the government of Niger unilaterally terminated the operating license of DATAPORT, a consortium of foreign investors from Libya and China that had purchased the national telecommunications provider SONITEL when it was privatized in 2002. Claiming the foreign firms failed to meet the terms of the original agreement regarding investment in new equipment and additional capacity, the government cut the term of the operating license from fifteen years to seven years and two months. The government of Niger regained full control of SONITEL and SahelCom, its cellular subsidiary, on February 20, 2009. The government of Niger's announcement did not address the issue of compensation for the joint-venture partners.

-- In early 2010, the Minister of Communications stated that the government of Niger would reduce the duration of two mobile phone operators' licenses because of poor service. According to the Minister, the fifteen-year license awarded to Kuwaiti telecommunications firm Zain in 2000 was cut by five years until a return to the agreed level of service quality. A second mobile telephone company, Moov, operated by Atlantique Telecom and majority-owned by Abu Dhabi-based Etisalat, saw its fifteen-year license held since 2000 cut by three years.

4. Dispute Settlement

While Niger's laws protect property and commercial rights, the administration of justice can be slow and uneven. The Investment Code provides for settlement of disputes and indemnification by arbitration or by recourse to the World Bank's International Center for Settlement of Disputes on Investment. However, investment dispute mechanisms in contracts are not always respected and due diligence is extremely important. In 2011, an American contractor was detained by police at the behest of a disgruntled Nigerien subcontractor, in violation of contract provisions. (The contractor was released by mid-day when the complaint was determined to be civil rather than criminal.)

Niger has been a member of OHADA, the Organization for the Harmonization of Business Law in Africa (*Organisation pour l'Harmonisation Afrique des Droits des Affaires*) since 1995. The OHADA Treaty aims to harmonize business laws in sixteen African countries by adopting common rules adapted to their economies, by setting up appropriate judicial procedures, and by encouraging arbitration for the settlement of contractual disputes. OHADA Treaty regulations on business and commercial law include definition and classification of legal persons engaged in trade; procedures for credit and recovery of debts; means of enforcement; bankruptcy; receivership; and arbitration.

In 2009, the government of Niger created the Arbitration Center (*Centre de Médiation et d'Arbitrage*), which is charged with settling routine business disputes, and a Business Center (*Centre de Gestion Agréée*) for helping businesses transition from the informal sector to the formal sector. Neither center has started operations.

5. Performance Requirements and Incentives

Performance requirements are not imposed as a condition for establishing, maintaining, or expanding foreign direct investments. Niger does offer incentives that increase as the size of the investment and number of jobs created increase. The Investment Code offers generous, VAT-inclusive tax exemptions, depending on the size of the business. Potential tax exemptions include start-up costs; property, industrial and commercial profits; services and materials required for production; and energy use. Exemption periods range from ten to fifteen years and include waivers of duties and license fees. Further advantages accrue to those investing in small-scale enterprise. There are no restrictions on foreign companies opening a local office in Niger, though they must obtain a business certificate from the Ministry of Commerce.

Niger has been a member of the WTO since 1996 and as such is committed to trade liberalization and opening its markets to foreign investments. Local products and traditional handicrafts of WAEMU origin enter duty free, together with a limited number of industrial products from producing enterprises approved by the WAEMU Commission. Niger's AGOA eligibility was restored in 2011 after the restoration of democracy. Under the provisions of the African Growth and Opportunity Act (AGOA), most Nigerien non-textile and apparel exports may enter the United States duty free. In December 2003, it was determined that Niger qualified for textile and apparel benefits provided under AGOA. Niger qualified for Category 9 of AGOA in 2006, which mostly allows the entry of hand-woven fabric into the United States duty free.

6. Right to Private Ownership and Establishment

Foreign and domestic private entities have the right to establish and own business enterprises. Private entities can freely establish, acquire, and dispose of interests in business enterprises. Legally established private-sector companies have the same access to markets, credit, and other business operations as do public enterprises (parastatals). As noted above, foreign ownership of land is permitted, but requires authorization from the Ministry of Planning, Land Management, and Community Development.

7. Protection of Property Rights

Niger is a member of the West African Intellectual Property Organization (*Organisation Africaine de la Propriété Intellectuelle, OAPI*), which sets the legal framework for protecting intellectual property and approves requests for registration. Protection is initially granted for ten years and is renewable for up to an additional ten years.

As a signatory to the 1983 Paris Convention for the Protection of Industrial Property, Niger provides national treatment under Nigerien patent and trademark laws to foreign businesses. Niger is also a member of the World Intellectual Property Organization (WIPO) and a signatory to the Universal Copyright Convention.

Niger's judiciary system is understaffed and has lacked independence. Despite a legal regime that protect intellectual property rights, the government of Niger lacks the capacity and resources to enforce copyright violations, and counterfeits, such as CDs , videocassettes and pharmaceuticals, are readily available.

8. Transparency of Regulatory System

Investment approval should be within thirty days from the date of application but investors should be prepared for delays due to inter-ministerial approvals. While efforts continue to make the tax laws more transparent, investors find it useful to specify financial obligations, such as tax liability, in individual business agreements. It is important to seek qualified guidance to insure compliance with tax and labor regulations.

In March 2011, the Extractive Industry Transparency Initiative (EITI) designated Niger as "compliant." In 2006, the government of Niger revised the Mining Code to offer specific incentives beyond those listed in the Investment Code: a five-year income tax holiday for large mines (two years for small mines) and exemption from customs duties on imported equipment for use in mineral exploration or mining operations. An updated Petroleum Code, based on international standards, was adopted in 2007.

A multi-sectoral regulatory agency (*Agence de Régulation Multisectorielle, ARM*) established in 2004 has oversight over telecommunications, water and electricity pricing.

9. Efficient Capital Markets and Portfolio Investment

There are no limits the free flow of financial resources. Credit is allocated on market terms, and foreigners do not face discrimination, but the Nigerien banking sector is poorly developed, inefficient and expensive. All the local banks are subsidiaries of banks based elsewhere in the region; there are no American or European banks and no stock exchange. Bank credit to the private sector has been less than 10 percent of GDP. The Central Bank of West African States governs Niger's banking institutions and sets minimum reserve requirements. Credit is generally allocated on market terms, but the cost is high and credit is usually extended only to large businesses. Four major commercial banks control about 90 percent of deposits. The government of Niger holds shares in a number of financial institutions.

10. Competition from State Owned Enterprises

There are no laws or rules that offer preferential treatment to SOEs. The Government of Niger, recognizing that its SOE portfolio was a burden on public finances and inhibited the development of the private sector, has passed a privatization law that provides the legal framework for privatization of 12 SOEs, including those in the telecommunication, water and electricity sectors, and the one government-owned hotel. One of the strategic goals of the Poverty Reduction Strategy Paper (PRSP) is accelerating growth through improved competitiveness, economic diversification and promoting exports. Increased competition in the Information, Communication and Technology (ICT) market has contributed to the rapid expansion of mobile services. Other non-privatized SOEs continue to struggle and face operational and financial difficulties.

11. Corporate Social Responsibility

Corporate Social Responsibility has taken on new importance. The Issoufou government has focused on ensuring existing CSR obligations are met, and that communities benefit, and is developing a charter on good corporate governance of oil and mineral resources will be submitted to the Council of Ministers. The 2011 Extraordinary Session of the National Assembly considered a proposal to modify Article 146 of the Petroleum Code, which would increase the share of oil revenues that flowed to local communities when more than one municipality is affected by the project (for example, in the case of petroleum the wells are near

Agadem but the refinery is near Zinder). Recently, French uranium mining company AREVA has created OSRA (*l'Observatoire de la Santé de la Region d'Agadez*) to cover medical care of community members. Telecommunication company Orange Niger has integrated social, environmental and economic priorities into its operations. New investors should expect CSR to be a factor in developing their investment.

12. Political Violence

Niger has suffered a series of coups, but they have not been affiliated with political violence and there has never been a civil war and there has been no damage to investments. Leaders of the most recent coup, in February 2010, restored democratic government within just over a year through a series of elections that ended in March 2011. The new government took office in April 2011 and has been committed to improving governance, implementing reforms, and supporting national reconciliation. President Mahamadou Issoufou, who had been an opposition leader for 20 years and had run for president in three past elections, won with 58% of the vote. He was inaugurated April 7 and named a Tuareg leader, Brigi Rafini, as Prime Minister, signaling a determination to work towards national reconciliation and better relations with the population of northern Niger.

There is a continuing threat of terrorist activity by al-Qaida in the Islamic Maghreb (AQIM), which claimed responsibility for the abduction of two French nationals from a restaurant in Niamey in January, 2011. Both were subsequently killed in the rescue attempt. The new government's priorities include a strong commitment to confronting and defeating the security threats. There is concern that Boko Haram's violent tactics may spill over from northern Nigeria, although there have been no attacks in Niger.

13. Corruption

Niger dropped to 134 out of 183 countries in Transparency International's Corruption Perception Index for 2011 (measuring events before the elected government took office). The new government is committed to tackling corruption: President Issoufou has named an eight-member High Authority to Combat Corruption that will work closely with Niger's Financial Intelligence Unit (FIU) CENTIF to investigate suspicious financial activities, and the Ministry of Justice has also set up an anti-corruption hotline. On December 27, the Ministry of Justice asked the National Assembly to lift the parliamentary immunity of eight Assembly deputies under investigation for embezzling public funds, including some in the ruling coalition.

Corruption in the executive and legislative branches is compounded by poorly financed and poorly trained law enforcement and weak administrative controls. Foreigners are advised not to pay bribes to policemen, customs officials, or other government officials. Bureaucratic processes can be slow, but this is often due more to inefficiency and lack of information technology than to corruption.

14. Bilateral Investment Agreements

Niger signed a bilateral investment agreement with the United States in September 1962. Foreign investment in Niger has been predominantly French, but recently Chinese and other investors, including Indian, have shown interest.

15. OPIC and Other Investment Insurance Programs

Niger is eligible for OPIC coverage but OPIC has not been involved in any Niger investments to date. The Export-Import Bank (Ex-Im) has a number of programs geared towards helping sub-Saharan manufacturers expand their business by financing U.S. exports of manufacturing equipment and services. Niger is not a member of the Multilateral Investment Guarantee Agency (MIGA) but is a member of the *Bourse Régionale des Valeurs Mobilières* (BRVM), a regional stock market located in Abidjan, Cote d'Ivoire.

16. Labor

The supply of skilled workers, technicians, and professionals is limited. There are 85,000 salaried formal sector workers (2009 data), just under half of whom are employed in the public sector. More than 90 percent of workers are in the informal sector and earn far below the legal minimum wage.

Niger's labor code is ranked among the most rigid in the world according to the Heritage Foundation. The Code was revised in 1996 and remains largely based on French legislation. It mandates a large number of public holidays and days of paid leave, and includes restrictions on use of overtime and layoffs.

Labor-management relations are generally good. The National Federation of Labor Unions (USTN, *Union Syndicale des Travailleurs du Niger*) is well organized and occasionally presses its demands (mostly for civil servants and parastatal workers) with limited strikes, but they tend to be short and peaceful. However, the high rate of unemployment and the threadbare state of public finances limit USTN's leverage. Labor law and practice in the formal sector conform to ILO principles.

17. Foreign-Trade Zones/Free Ports

Niger is landlocked, has no free trade zones and relies on the Port of Cotonou as a primary seaport. Importers also use the ports of Lome and Tema. Delivery can take months due to delays at borders and internal control points along the route.

18. Foreign Direct Investment Statistics

The government of Niger considers foreign investment key to restoring economic growth and development. Official statistics show Niger's second largest trading partner, after France, to be Nigeria. Nigeria, however, is Niger's largest trading partner when informal trade is included. South and East Asian countries also provide food (rice from Thailand) and inexpensive manufactured goods (from China, India). Niger also has trade relations with Japan, Germany, Saudi Arabia, the Gulf States, the Netherlands, the United Kingdom, Ivory Coast, Ghana, and Benin.

More than 120 mineral exploration and development permits to companies from twelve countries were awarded in 2007. The pace of new permits slowed in 2008, but the earlier permits are under active development. Interest in mineral and petroleum exploration has increased since inauguration of the new government.

Foreign Investments:

Name	Product	Millions US$	Year	Country
UNILEVER	Soap	0.4	1967	Cote d'Ivoire, England
Somair	Uranium	6.9	1968	France (AREVA)
Sonichar	Coal	11.0	1975	France
Cominak	Uranium		1978	France (AREVA), Japan, Spain
Braniger	Brewing	3.1		France
SEEN	Water	2.2	2001	France
Telecom	Telecom	68.4		France
SOMINA	Uranium	334.7	2008	China
Imouraren	Uranium	1,500.0	2008	France (AREVA)
Refinery	Oil	980.0	2008	China
Kandadji Dam	Electricity & Irrigation	257.0	2011	World Bank, BAD, OPEC, AFD
Malbaza Factory	Cement	78.0	2011	Niger, India, Norway